

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

STATE OF NEW JERSEY,

Plaintiff,

V.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, *et al.*,

Defendants,

and

METROPOLITAN TRANSIT AUTHORITY, *et al.*,

Defendant-Intervenor.

No. 23-3885

Hon. Brian R. Martinotti

**DEFENDANTS' CONSENT MOTION TO BE EXEMPTED FROM FILING THE
ADMINISTRATIVE RECORD ON THE DOCKET**

Pursuant to Local Civil Rule 5.2(11)(a), Defendants move to be exempted from filing the entire administrative record on the docket. Instead, and as described below, Defendants propose that they provide the Court and the Parties with electronic versions of the record in lieu of filing via ECF, with the potential for filing a record appendix at the conclusion of merits briefing.

At present, the record contains approximately 1,600 documents totaling more than 47,000 pages. Filing documents of that size via ECF is extremely cumbersome and has proven challenging in several jurisdictions when required by local rule. Instead, Defendants propose that: (1) they file a notice of lodging, the record index, and supporting documents via ECF; and (2) they provide electronic versions of the record documents and a hyperlinked index to the record to the Court and the Parties on flash drives. Upon request of the Court, Defendants can facilitate compilation of an appendix of record materials cited by the Parties during merits

briefing for filing on the docket within two weeks of the conclusion of briefing; filing only that more circumscribed appendix will avoid cluttering the docket and provide the Court with a tailored set of materials based on the briefing.

Defendants conferred with counsel for Plaintiff and Defendant-Intervenor, who consent to the relief requested.

Respectfully submitted this 25th day of October, 2023,

TODD KIM
Assistant Attorney General
United States Department of Justice
Environment & Natural Resources Division

/s/ GREGORY M. CUMMING
GREGORY M. CUMMING
SHARI HOWARD
SAMANTHA PELTZ
Trial Attorneys
Environment & Natural Resources Division
150 M St., N.E.
Washington, D.C. 20002
(202) 305-0457 (phone)
(202) 598-0414 (cell)
gregory.cumming@usdoj.gov
shari.howard@usdoj.gov
samantha.peltz@usdoj.gov

ALEX SILAGI
Assistant United States Attorney
District of New Jersey
United States Attorney's Office
970 Broad Street, 7th Floor
Newark, New Jersey 07102
973-353-6001 (phone)
alex.silagi@usdoj.gov

Counsel for Defendants